

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202004243	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/05/2020 11:30 PM	Location of Incident: Outside of § 87(2)(b)	Precinct: 46	18 Mo. SOL 12/5/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 06/14/2020 5:16 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 06/14/2020 5:16 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Bernard	19619	958308	046 PCT
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Samuel Mercado	08374	957851	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Bernard	Abuse: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Eric Bernard	Abuse: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Eric Bernard	Abuse: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.	
D. An officer	Abuse: An officer frisked an individual.	

Case Summary

On June 14th, 2021, § 87(2)(b) filed the following complaint with the CCRB via phone.

On June 5th, 2021, at approximately 11:30pm, § 87(2)(b) and § 87(2)(b) who § 87(2)(b), offered § 87(2)(b) a ride from Manhattan to his home at § 87(2)(b) in the Bronx. Immediately before driving into § 87(2)(b)'s building complex, Police Officer Eric Bernard and Police Officer Samuel Mercado, of the 46th Precinct, stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegations A - C: Abuse of Authority, § 87(2)(g)**). An additional unidentified individual was asked to step out of the car and frisked by an unidentified officer (**Allegation D: Abuse of Authority, § 87(2)(g)**).

No summonses or arrests resulted from this incident.

The investigation obtained body-worn camera footage (BWC) from PO Bernard, and cell phone footage from § 87(2)(b) the relevant aspects of which will be addressed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Eric Bernard stopped the vehicle in which § 87(2)(b) was an occupant.

The investigation established the following facts: On June 5th, 2021, § 87(2)(b) and § 87(2)(b) § 87(2)(b), were providing free car rides from Manhattan to the Bronx because the subway system was not running. § 87(2)(b) and § 87(2)(b) were the occupants of § 87(2)(b)'s vehicle as § 87(2)(b) drove to § 87(2)(b)'s residence at § 87(2)(b). As they were nearing the building, PO Bernard stopped § 87(2)(b)'s vehicle.

§ 87(2)(b) testified (BR 01) that at the time of the incident, he was driving on a two-way street. While driving, he crossed a double yellow lane marking to go around a bus that was directly in front of his vehicle. Immediately thereafter, an unmarked police vehicle behind him activated its sirens and § 87(2)(b) pulled over. PO Bernard approached § 87(2)(b)'s front driver's side window and stated that he pulled § 87(2)(b) over because § 87(2)(b) had gone around a bus.

§ 87(2)(b) testified (BR 02) that she believed § 87(2)(b) encountered a truck in front of him with its hazard lights on and had crossed a double yellow line to go around the truck. PO Bernard spoke with § 87(2)(b) at the driver's window and informed him the reason for the stop was because § 87(2)(b) had gone around a truck.

§ 87(2)(b) testified (BR 03) that PO Bernard told § 87(2)(b) "You forgot to signal when you made the turn."

PO Bernard's BWC (BR 04) captures him conducting a vehicle stop on § 87(2)(b)'s vehicle. At 1:00 on the player timestamp, PO Bernard, who appears to stand alone on the driver's side of the vehicle, tells § 87(2)(b) "Listen, the reason you're being pulled over is you're going around the busses over there that are trying to turn [and] you're going into the other lane of traffic." After examining § 87(2)(b)'s license and registration, PO Bernard returns to his police vehicle without issuing a summons. PO Mercado is not captured outside the police vehicle at any point on PO Bernard's BWC.

New York Vehicle and Traffic Law 1128 (BR 05) states that whenever any roadway has been divided into two or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has

first ascertained that such movement can be made with safety.

§ 87(2)(g)

Allegation (D) Abuse of Authority: An officer frisked an individual.

§ 87(2)(b) provided the investigation with cellphone footage (BR 06) that he testified he recorded during this incident. The footage shows a frisk, alleged to have occurred during the vehicle stop. At 1:24 on the player timestamp, a white male officer in plainclothes uses his left hand to squeeze the jacket pockets of an unidentified individual.

A request for a UF250 Stop Report based on incident location yielded negative results. A request for the stop report log from the 46th Precinct also yielded negative results (BR 14).

PO Bernard's BWC does not capture any frisk during the car stop. PO Bernard does not ask anyone to step out of the vehicle, nor does it capture a fourth occupant inside § 87(2)(b)'s vehicle.

§ 87(2)(b) did not allege a frisk of himself or any occupant of the vehicle during his testimony regarding this incident. When contacted by the investigation to identify the individual captured in the video, § 87(2)(b) stated that § 87(2)(b) would know the individual's name.

Neither § 87(2)(b) nor § 87(2)(b) testified to a fourth individual in the vehicle, nor did they raise any allegations of a frisk of an occupant of the vehicle.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint and has been named as a victim in five of allegations (BR 07):
 - § 87(2)(b)
- This is the first complaint to which § 87(2)(b) has been a party (BR 08).
- This is the first complaint to which § 87(2)(b) has been a party (BR 09).
- PO Bernard has been a member of service for and has been a subject in 7 CCRB complaints and 28 allegations, of which one was substantiated:
 - 201603787 involved a substantiated allegation of entry of premises against PO Bernard. The Board recommended formalized training and the NYPD imposed no penalty. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 8th, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 10).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator: C.V. Inv. Carlo Vescovi 08/10/21
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 08/10/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date